



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARC ANTHONY LOWELL ENDSLEY,	)	NO. CV 06-04100 DSF (SS)
	)	
Plaintiff,	)	ORDER ADOPTING FINDINGS,
	)	
v.	)	CONCLUSIONS, AND RECOMMENDATIONS
	)	
OCTAVIO LUNA,	)	OF UNITED STATES MAGISTRATE JUDGE
	)	
Defendant.	)	WITH MODIFICATIONS

Pursuant to 28 U.S.C. § 636, the Court has reviewed Plaintiff's First Amended Complaint ("FAC"), Defendant's Motion to Dismiss, Plaintiff's Opposition and Objections, Defendant's Reply and Objections, all the records and files herein, and the Amended Report and Recommendation of the United States Magistrate Judge. After having made a de novo determination of the portions of the Amended Report and Recommendation to which Defendant's and Plaintiff's Objections were directed, the Court concurs with and adopts the findings and conclusions of the Magistrate Judge, and the Objections do not cause the Court to reject or modify them, except as noted here. Accordingly, the Court accepts and adopts the Magistrate Judge's Amended Report and

1 Recommendation,<sup>1</sup> as modified below:

2 IT IS ORDERED that: (1) Defendant's Motion to Dismiss is DENIED as  
3 it pertains to Plaintiff's substantive due process claim as alleged in  
4 Claim I of the FAC and retaliation claim as alleged in Claim III of the  
5 FAC; (2) Defendant's Motion to Dismiss is GRANTED as it pertains to  
6 Plaintiff's procedural due process claim as alleged in Claim I of the  
7 FAC, Plaintiff's Turner v. Safley claim as alleged in Claim IV of the  
8 FAC, Plaintiff's equal protection claim as alleged in Claim III of the  
9 FAC, Plaintiff's claim alleging deprivation of treatment services as  
10 alleged in Claim II of the FAC, and Plaintiff's access to the courts  
11 claim as alleged in Claim V of the FAC; and (3) Plaintiff's procedural  
12 due process claim, Turner v. Safley claim, and access to the courts  
13 claim<sup>2</sup> are DISMISSED without leave to amend.

14 IT IS FURTHER ORDERED THAT Plaintiff may file an amended complaint  
15 in accordance with this order no later than September 30, 2008. If  
16 Plaintiff files an amended complaint, Defendant shall file a responsive  
17 pleading within 20 days of service of that complaint. If Plaintiff  
18 fails to file a timely amended complaint, Defendant shall answer  
19 Plaintiff's substantive due process and retaliation claims no later than  
20 October 20, 2008. The magistrate judge shall have the authority to  
21 extend these deadlines for good cause shown.  
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26 <sup>1</sup> The Court clarifies that the motion to dismiss based on qualified immunity  
27 is denied without prejudice to a future motion. At page 7, line 3, "policies" should  
be "policies" and at page 8, line 8, "allege claim" should read "allege a claim."

28 <sup>2</sup> Plaintiff stated that he had no objection to the finding on this claim.

1       The Clerk of the Court shall serve copies of this Order on  
2 Plaintiff and counsel for Defendant.

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4 DATED: 8-18-08

  
5 DALE S. FISCHER  
6 UNITED STATES DISTRICT JUDGE  
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